

Section 313.837 Report on Competitiveness

Introduction

Section 313.837, RSMo, requires the Commission to report annually to the General Assembly “the status of the competitiveness of Missouri excursion gambling boats when compared to the gaming tax rate of adjoining states and the effects of the loss limits imposed by subdivision (3) of Section 313.805, RSMo, on the competitiveness of the gaming industry in Missouri.” The Commission issued its first comprehensive report on this issue to you in 1996.¹ The report informed you that the loss limit made Missouri riverboat casinos less attractive to patrons and had the effect of driving Missouri residents to gaming facilities in neighboring jurisdictions. It resulted in fewer customers and lower rates of customer spending.

For five consecutive years, the supporting data has not changed. Meanwhile, each year when the Commission issues its report, some chastise the Commission by erroneously claiming it is seeking repeal of the loss limit. The Commission faces this criticism even though each report clearly states that it is fulfilling its statutory obligation to report to you on the effect of the loss limit on competitiveness.

As the following analysis indicates, once again the data shows that the loss limit renders Missouri riverboat casinos less competitive than their neighbors without loss limits. This finding should be neither surprising nor controversial. Thus, it appears clear the time has come to repeal the requirement to report on this subject in future annual reports. The Commission asks that you consider such legislation. It would be more helpful to request a study to determine whether the loss limit has any effect on problem gamblers. To date, no one has presented any evidence that the loss limit deters people from becoming problem gamblers. Some hypothesize that the loss limit acts as a braking mechanism to slow the losses of problem gamblers. Either subject seems a more useful topic for research and discussion than the loss limit's effect on competitiveness, an issue that is clearly settled.



Competitive Impact of Missouri's Gaming Tax Rate

The gaming tax rates imposed on riverboat gaming operations in Missouri have not changed since the first licenses were issued in May 1994. Missouri law imposes an 18% tax on the adjusted gross receipts (AGR) of riverboat gaming operators.² In addition, a local tax of 2% on AGR is collected by the state and distributed to each home dock city or county.³

The statute also imposes an admission fee on the operators of excursion gambling boats in the amount of two dollars (\$2) per patron, per excursion, which is split between the home dock community and the state.⁴ Furthermore, pursuant to section 313.824, RSMo, excursion gambling boat operators are charged for the cost of gaming agents who are assigned to the riverboat with the responsibility of protecting the public. While the cost of Commission agents varies with each operation, the average annual cost is approximately \$650,000 per gaming facility.

¹ Prior to 1996, there was insufficient data to provide any meaningful commentary on the effect of the loss limit on competitiveness.

² Adjusted gross receipts are defined by Section 313.800, RSMo, as “the gross receipts from licensed gambling games and devices less the winnings paid to wagerers.” In other words, the amount the casino “wins” from patrons. It is often referred to as “casino win”. The tax on AGR is set forth in Section 313.822, RSMo.

³ Section 313.822, RSMo.

⁴ Section 313.820, RSMo.

Effective Gaming Tax Rate

States that have legalized gaming have devised a variety of different taxes, fees and assessments that apply to casino operators. In addition, varying regulatory policies have a significant impact on the amount of revenue a casino generates. In order to compare the effects of such policy decisions, industry analysts and those who research public policy issues related to gaming have devised a simple formula to compare the public costs paid by gaming operators in various states. Commonly referred to as the “effective tax rate,” the formula is simply the total of all gaming taxes, fees and assessments as a percentage of gross revenue.⁵

The effective tax rate is a helpful tool on at least two levels. First, it consolidates into one number all gaming taxes, fees and assessments that casino operators are required to pay. These expenses are typically separated in public report tables and it becomes difficult to evaluate the total costs being paid by a casino operator in order to maintain the privilege of being licensed. In addition, assessments against a licensee for various regulatory activities are often not reflected in the revenue reports that are distributed by the states.⁶ However, these costs can be significant and must be considered in evaluating the effect of taxes and regulations on the economic impact of gaming.

The effective tax rate is instructive in comparing the impact of varying state regulatory schemes on gaming revenues. When regulations limit the amount of revenue that a gaming facility can generate, it will be reflected in the effective tax rate. Naturally, there are some instances, such as the \$500 loss limit in Missouri or the betting limits in Colorado or South Dakota, where the policy objective is intended to reduce revenue. In such cases, the effective tax rate is a useful tool in analyzing the cost of those policy objectives.

The effective tax rate is also a good indicator for evaluating many ramifications of tax policy. For instance, a good case can be made that graduated tax rates on gross casino revenue act as a deterrent to capital investment. When a company decides to commit additional capital to a casino property, it naturally expects to generate additional revenue to earn a reasonable return on its investment. However, if tax rates are graduated up, the casino company must consider the fact that any new injection of capital must generate substantially higher returns than existing capital in order to cover the cost of the higher tax rate. The higher taxes will be reflected in the company’s effective tax rate. While other market forces such as the quality of the operation, access to the property and demographics must be considered, the effective tax rate provides a good base comparison of state regulatory schemes.

The Competitiveness of the Missouri Tax Rate

The Commission has opined that, as a result of the 1998 Illinois tax increase, Missouri’s gaming tax rate on AGR is more conducive to capital investment than Illinois’ highly graduated tax system.⁷ This theory seems to be borne out by the fact that the effective tax rate for Illinois operators remained virtually unchanged at 30.9% despite considerably lower admission fees. Overall, the strong AGR growth in Illinois resulted in the casinos paying gaming tax at the higher rate.

⁵ The formula only includes taxes and fees that are unique to the gaming industry. Therefore, such things as state income or sales tax are not included.

⁶ For instance, Section 313.824, RSMo. requires that the riverboat gambling operators reimburse the Commission for the full cost of the staff necessary to protect the public. Last year this resulted in an average annual cost of \$650,000 per gaming facility. However, these costs are not included in the revenue report issued by the Commission.

⁷ Missouri Gaming Commission Annual Report to the General Assembly, Fiscal Year 1999, pages 13-14.

Illinois' admission fees are lower when compared to 1999 because when the Illinois legislature authorized dockside gaming and permitted continuous boarding, it did not impose stay-over admission fees. Pursuant to state statute, Missouri operators are assessed a \$2 admission fee for each patron attending each gambling excursion.⁸ The Illinois law requires operators to pay only one \$2 admission fee for each patron entering the casino.

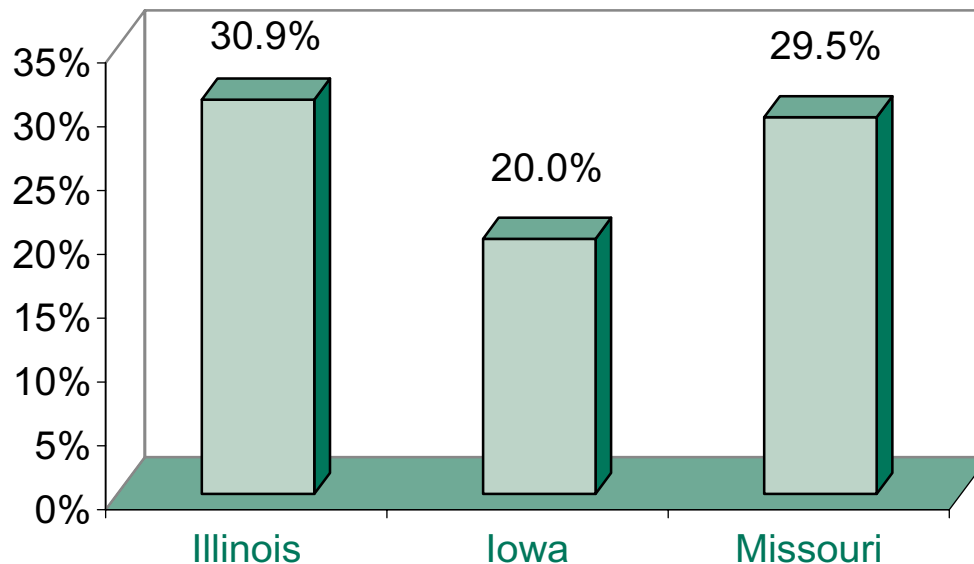
Furthermore, unlike Missouri, Illinois does not charge for the cost of enforcement agents assigned to gaming facilities to protect the public. In FY 2001, Missouri casino operators were assessed \$5,853,000 to pay for the cost of Commission agents assigned to gaming boats to protect the public.

There have been no changes to the Iowa tax rate since the first Missouri gaming facilities were licensed in 1994. Because its graduated rate tops out at 20%, Iowa has a lower tax on AGR than Missouri. In addition, Iowa's admission fee is set by the Commission and designed only to cover the cost of regulation and provide some local revenue. Therefore, Iowa gaming facilities pay an average of \$1.70 less per admission than their Missouri competitors.

⁸ Because of the loss limit, the Commission continues to require operators to conduct 2-hour gambling excursions. Since Illinois has no loss limit, there are no "phantom cruises" in their new continuous boarding environment.

Effective Tax Rate

Neighboring States



The Missouri tax rate is currently one of the highest in the gaming industry. However, its structure has some inherent advantages over Illinois and the lower tax rate in Iowa does not appear to be affecting the competitiveness of the Missouri operators. Certainly, over the long term, the fact that Kansas Indian casinos pay no tax will have an impact on western Missouri operators. Finally, because Missouri has chosen the gradual approach to licensure by waiting to introduce new gaming capacity into a market until there is some indication that it can be absorbed, the tax rate has been effectively managed by the Missouri casino licensees.⁹

Effect of the Loss Limit on Competitiveness

Missouri operators continue to be at a competitive disadvantage when compared with gaming operators in neighboring states with no loss limits. The disadvantage continues despite expansion efforts and new property developments, which have produced facilities that are larger, provide superior comfort and more non-gaming amenities than their competitors in other states. For the fifth consecutive year, the data clearly shows that the loss limit reduced customer counts and gaming revenue. The inconvenience of the loss limit results in the export of Missouri gaming customers to other states and the loss of potential gaming revenue from local gamers and tourists.

This proposition is supported not only by the chart on page 14, but also by the fact that Illinois riverboats are capturing a larger market share than that state's population base represents. Missouri residents account for 77% of the St. Louis metropolitan area population base.¹⁰ However, Missouri casinos in the St. Louis metropolitan area capture only 62% of the gaming revenue market. This equates to an inequity of \$108 million in relation to gaming revenue and \$32 million in state and local taxes per year.

The Commission has spent thousands of hours working to improve enforcement of the loss limit. The Commission has and will continue to vigorously enforce the loss limit. In the past year, the Commission has fined casinos \$660,000 for loss limit violations. Please note that the above findings are intended to satisfy the Commission's statutory mandate to report annually to the General Assembly on the effects of the loss limit on the competitiveness of the gaming industry in Missouri. The enactment of any changes in policy as a result of these findings are obviously the purview of the General Assembly and the Governor.

⁹ While many gaming operators struggled during the start-up period for riverboat gambling, all of the current licensees are generating positive EBITDA (Earnings Before Interest, Taxes and Depreciation).

¹⁰ U.S. Census Bureau, Census 2000.

Win Per Patron

Missouri vs. Competing Jurisdictions

